

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MCI COMMUNICATIONS SERVICES, INC. d/b/a
VERIZON BUSINESS,

Plaintiff,

-against-

URBAN FOUNDATION COMPANY, INC.,

Defendant.
-----X

ANSWER

08 CV 00036
(Magistrate Rakoff)
(Judge Marrero)

The Defendant, **URBAN FOUNDATION COMPANY, INC.**, by its attorneys, The Law Offices of Edward Garfinkel, as and for an answer to the complaint of the Plaintiff herein, respectfully alleges upon information and belief:

JURISDICTION AND VENUE

FIRST: Admits paragraph 2 of the complaint.

SECOND: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 1, 4 of the complaint.

THIRD: Denies paragraph 3 of the complaint.

BACKGROUND INFORMATION

FOURTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 5 of the complaint.

FIFTH: Denies paragraph 6 of the complaint.

ANSWERING THE FIRST CAUSE OF ACTION

SIXTH: Repeats the admissions and denials to the paragraph of the complaint repeated and re-alleged in paragraph 7 of the complaint.

SEVENTH: Denies paragraphs 8, 9, 10, 11 of the complaint.

ANSWERING THE SECOND CAUSE OF ACTION

EIGHTH: Repeats the admissions and denials to the paragraph of the complaint repeated and re-alleged in paragraph 12 of the complaint.

NINTH: Denies paragraphs 13, 14, 15 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

That the injuries and damages to the Plaintiff were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of the Plaintiff and any such alleged damages should be fully or partially diminished by said culpable conduct and want of care pursuant to CPLR Article 14-A.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

That the Plaintiff received remuneration and/or compensation for some or all of his claimed economic loss and that the defendant is entitled to have plaintiff's award, if any, reduced by the amount of that remuneration and/or compensation, pursuant to Section 4545(c) of the Civil Practice Law and Rules and the Federal Rules of Civil Procedure.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

That the liability of the defendant, URBAN FOUNDATION COMPANY, INC., if any, does not exceed fifty percent (50%) of the liability assigned to all persons and that the liability of the defendant, URBAN FOUNDATION COMPANY, INC., if any, for non-economic loss is limited pursuant to Article 16 of the CPLR.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE


That the Plaintiff failed to mitigate plaintiff's damages.

WHEREFORE, the defendant, **URBAN FOUNDATION COMPANY, INC.**, demands judgment dismissing the Complaint and further demands judgment over and against the Plaintiff, for the amount of any judgment obtained against this defendant, **URBAN FOUNDATION**

COMPANY, INC., by the Plaintiff or on the basis of apportionment of responsibility in such amounts as a jury or Court may direct together with costs, disbursements, and expenses of this action including attorneys' fees.

Dated: New York, New York
February 12, 2008

Yours etc.,
The Law Offices of Edward Garfinkel
Attorneys for Defendant
URBAN FOUNDATION COMPANY, INC.

By: 
Marc Silverstein (MS-8229)
110 William Street
New York, New York 10038-3901
(212) 809-8000
Our File No.: NYNY 27159

TO:

GIBBONS PC
Attorneys for Plaintiff
One Pennsylvania Plaza, 37th Floor
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(212) 613-2000
By: Lisa Lombardo (LL-2532)

Of Counsel:
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James J. Proszek
Kimberly R. Schutz

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

Patricia Mariano, being duly sworn, deposes and says: That she is not a party to this action, is over 18 years of age and resides in New Jersey.

On February 13, 2008, she served the within ANSWER upon the attorneys whose names and addresses are set forth below by enclosing a true copy thereof in a securely sealed envelope/container, with proper postage, addressed to their respective offices, and by depositing the same in an official box of the U.S. Post Office regularly maintained by the United States Government at 110 William Street, New York, New York 10038-3901.

TO:

GIBBONS PC
Attorneys for Plaintiff
One Pennsylvania Plaza, 37th Floor
New York, New York 10119-3701
(212) 613-2000
By: Lisa Lombardo (LL-2532)

Of Counsel:
HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.
320 South Boston Avenue, Suite 400
Tulsa, OK 74103-3708
(918) 594-0400


Patricia Mariano

Sworn to before me this
13 day of February, 2008


Notary Public

NYNY 27159
MCI Communications v. Urban Foundations, et al.
CIV Number: 08 CV 00036

WENDY ARROYO
NOTARY PUBLIC, State of New York
No. 01AR6148845
Qualified In Kings County
Commission Expires July 3, 2010